

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0449P

Income Tax Penalty
Calendar Year 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer's representative, in letters dated November 15, 2000 and April 16, 2001 protested the penalty and interest assessed for 1998.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a penalty for failure to timely pay its entire tax liability by the due date of the return.

Taxpayer, in a letter dated April 16, 2001, set forth several reasons for its failure to remit the entire amount of tax due by the due date. In summary, it did not fully pay its AGIT liability for the tax year at the time it submitted its extension request because it was not in possession of all of the financial information necessary to calculate a true and correct extension payment. Specifically, it was not in possession of final financial information from various partnerships at the time it filed the subject extension request. The partnerships were granted extensions of time

for filing required information reports. As a result of the additional time granted to the subject partnerships to file the subject information returns, taxpayer was not able to accurately calculate its final consolidated AGIT liability at the time it submitted its extension request.

Taxpayer states that the failure was due to several factors which include the selling of its stock to an unrelated party on July 17, 1998. In April 1999, the taxpayer calculated an estimated net operating loss and anticipated that it would be required to remit Gross Income Tax, but not Adjusted Gross Income Tax or Supplemental Net Income Tax. Accordingly, it remitted Gross Income Tax with its timely filed extension request based on its anticipated net operating loss for the Tax Year. Taxpayer states that the full balance due was timely remitted with the return filed for the Tax Year and it remitted to the Department, on or before the original due date, at least ninety percent of the Indiana tax that is reasonably expected to be due. Taxpayer requests the penalty be considered for abatement.

Taxpayer remitted eighty-two percent (82%) of its tax due by the due date; i.e. April 15, 1999. Taxpayer paid the balance on October 20, 1999.

IC 6-8.1-6-1 clearly states that at least ninety percent (90%) of the tax that is reasonably expected to be due must be paid by the due date.

The department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Interest

DISCUSSION

Taxpayer requests the abatement of interest for the same reasons as stated in item I.

The department has no authority to waive interest under IC 6-8.1-10-1(e).

FINDING

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is denied for issues I and II.